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COMMONWEALTH of VIRGINIA

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street Address: 355 Deadmore Street, Abingdon, Virginia 24210
Mailing Address: P.O. Box 1688, Abingdon, Virginia 24212-1688
Fax: (276) 676-4899
www.deq.state.va.us

Robert G. Burnley
Director

Michael D. Overstreet
Regional Director
(276) 676-4800

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Vaughan-Bassett Furniture Company Registration No. 10308

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§10.1 – 1301, 1309, 1316 and 10.1 – 1184, between the State Air Pollution Control Board and the Vaughan-Bassett Furniture Company for the purpose of resolving certain violations of State Air Pollution Control Board Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a collegial body of the Commonwealth of Virginia described in § 10.1-1301 and § 10.1-1184 of the Code.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Regional Office" means the Southwest Regional Office of the Department.
6. "Order" means this document, also known as a Consent Order.
7. "Regulations" means the "State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution", which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).
8. "Company" means Vaughan-Bassett Furniture Company, 300 East Grayson Street, Galax, VA 24333.

SECTION C: Findings of Facts and Conclusions of Law

1. Vaughan-Bassett Furniture Company owns and operates a wood furniture manufacturing facility located at 300 East Grayson Street, Galax, Virginia.
2. Vaughan-Bassett Furniture Company was issued a Virginia Title V Operating Permit to operate a wood furniture manufacturing facility on January 3, 2002, modified July 9, 2003.
3. On February 13, 2004 an air inspection of Vaughan-Bassett Furniture Company's Galax plant was conducted. During the above referenced inspection the following observations were noted: The pre-stain spray booth was in operation while the center particulate filter was not in place; there were no HVLP spray gun testing caps on-site as required for monitoring of HVLP spray gun atomization pressure.
4. Permit Condition II of Vaughan-Bassett Furniture Company's Title V permit dated January 3, 2002 as modified on July 9, 2003 states "the pollution control device for the finishing line exhaust stacks is metal baffles". The booths must as a minimum contain metal baffles. Vaughan Bassett Furniture Company had installed filters in their pre-stain spray booth per their Title V permit application.

9 VAC 5-80-260 Enforcement A.1 states "Pursuant to section 10.1-1322, failure to comply with any condition of a permit shall be considered a violation of the Virginia Air Pollution Law".
5. Subpart JJ (National Emissions Standards for Wood Furniture Manufacturing Operations) Section 63.804(g)(8)(i) states in part: "The compliance certification shall state that the work practice implementation plan is being followed, or should otherwise identify the provisions of the plan that have been implemented. During any period of time that an owner or operator is required to implement the provisions of the plan, each failure to implement an obligation under the plan during any particular day is a violation". During the inspection it was found that Devilbiss HVLP spray guns were not being tested for excess operating pressure as outlined on page LP-2-8 of Vaughan-Bassett Furniture Co.'s work practice plan.
6. 9 VAC 5-170-160.A – (Conditions on Approvals) of the Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution states in part:

The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits.
7. On February 25, 2004, DEQ sent a Notice of Violation Letter (NOV No. 02-02-04), for permit and regulation violations, by Certified Mail-Return Receipt Requested, to Vaughan-Bassett Furniture Company, informing the Company that DEQ had reason to believe that a violation of Air Pollution Law and Regulations 9 VAC 5-80-260, 63.804(g)(8)(i) and 9 VAC 5-170-160.A had occurred.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1 – 1316 (C), orders Vaughan-Bassett Furniture Company and the Company voluntarily agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Vaughan-Bassett Furniture Company and the Company voluntarily agrees to pay a civil charge of \$14,000.00 in settlement of the violations cited in this Order.

1. \$3,500.00 of this civil charge shall be paid within 30 days of the effective date of this Order. Payment must indicate that the civil charge is pursuant to the Vaughan-Bassett Furniture Company Order. Payment shall be by check, certified check, money order or cashier's check payable to "Treasurer of the Commonwealth of Virginia" and sent To:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

For purposes of properly identifying its payment, Vaughan-Bassett Furniture Company shall include with the check, a notification of its Registration Number, Federal Identification Number and the fact that payment is being made in accordance with the terms of this Order.

2. The Company shall submit a compliance plan detailing methods implemented by Vaughan-Bassett Furniture Company to prevent future noncompliance with above referenced regulations. This plan and schedule shall be subject to the approval of the Director, Department of Environmental Quality, SWRO.
3. \$10,500.00 of this civil charge shall be satisfied upon completion by Vaughan-Bassett Furniture Company of a Supplemental Environmental Project (SEP) pursuant to Virginia Code 10.1-1186.2 and as described in Appendix A of this Order.
4. In the event that the SEP is not performed as described in Appendix A, upon notification by the Department, Vaughan-Bassett Furniture Company shall pay the amount specified in Paragraph 3 above within 30 days of such notification according to procedures specified in Paragraph 1 above, unless an alternate project has been agreed upon by the parties.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Vaughan-Bassett Furniture Company for good cause shown by the Company, or on its own motion after notice and opportunity to be heard.
2. Nothing herein shall be construed as altering, modifying, or amending any term or condition contained in the Company's Virginia Title V Operating Permit dated January 3, 2002 as modified July 9, 2003.

3. This Order addresses only those violations specifically identified herein or those relating to the inspection of February 13, 2004. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any subsequent violations or violations not identified in the Notice of Violation of February 25, 2004; (2) seeking subsequent remediation of Vaughan-Bassett Furniture Company as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
4. For purposes of this Order and subsequent actions with respect to this Order, Vaughan-Bassett Furniture Company admits the jurisdictional allegations, but does not admit the factual findings, and conclusions of law contained herein.
5. Vaughan-Bassett Furniture Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
6. Vaughan-Bassett Furniture Company declares it has received fair and due process under the Administrative Process Act, Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board or Director to enforce this Order.
7. Failure by Vaughan-Bassett Furniture Company to comply with any material terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
8. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
9. Vaughan-Bassett Furniture Company shall be responsible for failure to comply with the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Vaughan-Bassett Furniture Company must show that such circumstances resulting in noncompliance was beyond its control and not due to a lack of good faith or diligence on its part. Vaughan-Bassett Furniture Company shall notify the Director, Southwest Regional Office of DEQ within 72 hours with a follow-up in writing within seven days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director, Southwest Regional Office of DEQ within 72 hours of learning of any condition listed above, which the Company intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.

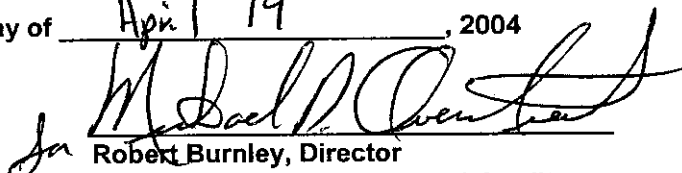
- 10. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.**
- 11. This Order shall become effective upon execution by both the Director or his designee and Vaughan-Bassett Furniture Company. Notwithstanding the foregoing, the Company agrees to be bound by any compliance date which precedes the effective date of this Order.**
- 12. This Order shall continue in effect until the Director or the Board determines Vaughan-Bassett Furniture Company has met all the conditions of the order and the Company is thereafter notified of compliance by the Department. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Vaughan-Bassett Furniture Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.**

APPENDIX A

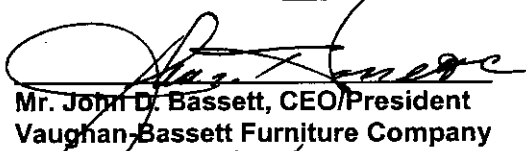
- 1. The Supplemental Environmental Project to be performed by Vaughan-Bassett Furniture Company is to install filter grids and filters into the stain booth #2 along with exhaust fan and duct work at their Galax, Virginia Plant. The units shall be installed and operational within 60 days of the effective date of this Order.**
- 2. The cost of the SEP to Vaughan-Bassett Furniture Company shall not be less than \$10,500.00. In the event that the final cost of the SEP is less than this amount, Vaughan-Bassett Furniture Company shall pay the remainder of the amount to the Commonwealth of Virginia, unless otherwise agreed by the Department.**
- 3. Vaughan-Bassett Furniture Company acknowledges that it is solely responsible for completion of the SEP project. Any delegation of funds, tasks, or otherwise by Vaughan-Bassett Furniture Company to a third party, shall not relieve Vaughan-Bassett Furniture Company of its responsibility to complete the SEP as contained in this Order.**
- 4. The SEP shall be completed by Vaughan-Bassett Furniture Company within 60 days after Consent Order is issued.**
- 5. Vaughan-Bassett Furniture Company shall provide the Director, Southwest Regional Office of DEQ with verification of completion of the SEP by contacting the Southwest Regional Office of DEQ with the completion date. The project completion verification must be submitted to the Department within 7 days after the project completion date. Upon notification of the completion of the SEP by Vaughan-Bassett Furniture Company, DEQ staff will perform a site inspection to verify project completion.**
- 6. Vaughan-Bassett Furniture Company shall submit verification to the Director, Southwest Regional Office of DEQ in the form of contractor invoices of the final overall cost of the SEP within 30 days of the project completion date.**
- 7. In the event that Vaughan-Bassett Furniture Company publicizes the SEP or the results of the SEP, Vaughan-Bassett Furniture Company shall state in a prominent manner the project is part of a settlement for an enforcement action.**
- 8. The Director, Southwest Regional Office of DEQ has the sole discretion whether the SEP has been completed in a satisfactory manner.**

13. By its signature below, the Vaughan-Bassett Furniture Company voluntarily agrees to the issuance of this Order.

And it is ORDERED this day of April 19, 2004


for Robert Burnley, Director
Department of Environmental Quality

Vaughan-Bassett Furniture Company voluntarily agrees to the issuance of this Order.


Mr. John D. Bassett, CEO/President
Vaughan-Bassett Furniture Company
Date: 4/15/04

Commonwealth of Virginia

City/County of Carroll

The foregoing document was signed and acknowledged before me this 15th day of

April, 2004 by John D. Bassett on behalf of Vaughan-Bassett
Furniture Company

Date: 4-15-2004


Notary Public

My commission expires: August 31, 2005

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